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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,064	05/08/2001	Peter Lisec	L57-362002-pUS	9161

466 7590 12/04/2002

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EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 12/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/850,064

Applicant(s)

LISEC, PETER

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of German Patent 3634793 and any one of E.P. 546,854, E.P. 662,389 or PCT WO 88/06966 and optionally further taken with Lemelson for the same reasons as expressed in paper no. 5, paragraph 4.

It should be noted that the applicant's admitted prior art suggested that the hollow profiles of the prior art were made from aluminum.

Response to Arguments

3. Applicant's arguments filed 11-6-02 have been fully considered but they are not persuasive.

The applicant argues that the claims are limited to the use of metal hollow profiles which were joined to make a framework for a window and that the prior art of record did not suggest that the techniques employed by German Patent '793 would have been useful for metal profiles as now claimed. The applicant is advised that the admitted prior art suggested that those skilled in the art at the time the invention was made would have known to weld metal tubular members in the fashion claimed for a window unit, however the undesirable bead was formed. The applicant argues that the only reference which suggested that metal hollow section strips would have been employed was Lemelson, however the admitted prior art suggested that the joining of metal hollow strips to make a window component was known at the time the invention was made. Additionally, the reference to Lemelson suggested that the techniques used to weld metal

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members together would have been applicable to both metal and plastic members and thus, the techniques used to eliminate the bead formed in the weld of the plastic members would have been useful and understood to have been employed when joining metal members as well. While it is correct that the references to German Patent 3634793, E.P. 546,854, E.P. 662,389 and PCT WO 88/06966 related to welding of plastic profiles, the reference to German Patent '793 in the abstract of the disclosure made it clear that the specified welding of the plastic tubes therein was useful for manufacturing a product for window frames. Clearly, one skilled in the art at the time the invention was made would have understood that the techniques used to join plastic hollow strips would also have been applicable to joining hollow metal strips as such was suggested by Lemelson and therefore the techniques used to join the plastic tubes to eliminate the weld bead would have been understood to have been useful to joining the metal profiles. The applicant is advised that the joining of the metal tubes was known as suggested by the applicant's admitted prior art and the problem of the bead was identified by applicant. The solution to the problem would have been to cut a groove or step into the tubular member at the edge as suggested by the references set forth above and such processing would have been performed whether the tubes were formed from plastic or metal.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

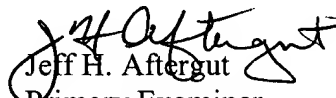
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 703-308-2069. The examiner can normally be reached on Monday-Friday 6:30-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
December 2, 2002